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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,448	07/30/2001	Alfred Johann Peter Haszler	APV31193	7040

7590

10/04/2002

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EXAMINER

COMBS, JANELL A

ART UNIT

PAPER NUMBER

1742

DATE MAILED: 10/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/830,448

Applicant(s)

HASZLER ET AL.

Examiner

Janelle Combs-Morillo

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 16, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 line 1 states “the corrugated aluminum stiffener” which lacks antecedent basis.

Claims dependent on the above rejected claims are likewise rejected under this statute.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 799,900 A1 (EP'900) in view of Sale et al (US 3,685,229) and/or Murtha (US 5,496,426) and optionally “Metals Handbook Desk Edition” pp 445, 450.

EP'900 teaches a high strength Al-Mg alloy used in large welded constructions wherein said alloy comprises (in weight%): 4.5-7% Mg, 0.4-1.2% Mn, 0.4-5% Zn, up to 0.3% Zr, up to 0.3% Cr, up to 0.3% Ti, up to 0.5% Fe, up to 0.5% Si, up to 0.4% Cu, balance consisting of

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aluminum (page 2 lines 41-43). EP'900 teaches that said alloy maintains corrosion resistance, weldability, formability, bendability, and has improved strength (page 2 lines 18-19, page 6 lines 16-18). EP'900 does not teach a) the PS/UTS ratio in the H or O temper of said alloy, or b) said aluminum alloy is corrugated and secured to a parallel plate or sheet.

Concerning item a), though EP'900 does not teach the PS/UTS ratio in the H or O temper of said alloy, the examiner asserts that where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a prima facie case of either anticipation or obviousness has been established. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). "When the PTO shows a sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not." *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990). Therefore, if the prior art teaches the identical chemical structure, the properties applicant discloses and/or claims (such as PS and UTS) are necessarily present.

Concerning item b), Sale teaches corrugated structures made from weldable and formable aluminum alloys (column 4 lines 8, 16, 20, etc) used for structural applications. The corrugated lattice can be placed in-between two parallel plates of the same composition and welded (abstract, see Figures, column 4 lines 14-15). Because EP'900 teaches that said alloy composition has improved strength, and is weldable and formable, it would have been obvious to one of ordinary skill in the art to use said alloy in the corrugated aluminum alloy structure taught by Sale.

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Alternatively, concerning item b), Murtha teaches that “it is generally known that sheet metal products such as aluminum sheet, can be stiffened by rolling a structural shape from the flat sheet product” (column 3 lines 51-53) i.e. corrugating (see Figures, etc.). Because EP’900 teaches that said alloy composition has improved strength, and is weldable and formable, and because Murtha teaches that aluminum sheet products can be stiffened by rolling into a corrugated shape, it would have been obvious to one of ordinary skill in the art to use said alloy in the corrugated aluminum alloy structure taught by Murtha.

Concerning dependent claims 2 and 15, the well known definition of a “sheet” overlaps the presently claimed thickness ranges (see Metals Handbook p 445, etc.).

Concerning dependent claims 3, 4, 16, and 18, as stated above, EP’900 teaches an overlapping alloy composition. Overlapping ranges have been held to be a prima facie case of obviousness, see MPEP § 2112.01, *In re Best* 195 USPQ 430, *In re Malagari*, 182 USPQ 549, *In re Titanium Metals Corporation of America v. Banner*, 227 USPQ 773 (Fed. Cir 1985), *In re Woodruff*, 16 USPQ 2d 1934, and *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976).

Concerning dependent claims 6 and 9, it is known in the art to clad aluminum alloys with an aluminum alloy of higher purity (or low alloying elements) in order to increase corrosion resistance (see Metals Handbook p 450, etc.). It would have been obvious to one of ordinary skill in the art to clad the Al-Mg-Zn corrugated alloy with an alloy of higher purity (or low alloying elements) than said Al-Mg-Zn because it is well known (and taught by Metals Handbook p 450) that said cladding improves corrosion resistance.

Concerning dependent claims 7, 8, 12, 17, and 19 as stated above, the prior art teaches securing the corrugated stiffener to plates of identical composition by welding (see above).

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Concerning dependent claims 13 and 14, which state that said composite panel is suitable for ship building and marine offshore construction respectively, the examiner points out that because the prior art teaches that said corrugated structure has improved strength (EP'900 page 2 lines 18-19, page 6 lines 16-18), and useful for structural applications (Sale, etc), then it would have been obvious to one of ordinary skill in the art to use said corrugated structure in a variety of applications, including marine and ship building applications.

### *Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janelle Combs- Morillo whose telephone number is (703) 308-4757. The examiner can normally be reached Monday through Friday from 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached on (703) 308-1146. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

jcm 

October 1, 2002



GEORGE WYSZOMIERSKI  
PRIMARY EXAMINER